

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1914**  
**91ST GENERAL ASSEMBLY**

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Reported from the Committee on Utilities Regulation, April 18, 2002, with recommendation that the House Committee Substitute for House Bill No. 1914 Do Pass.

TED WEDEL, Chief Clerk

4603L.02C

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**AN ACT**

To repeal section 386.370, RSMo, and to enact in lieu thereof two new sections relating to the funding of the office of public counsel, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 386.370, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 386.370 and 386.720, to read as follows:

- 386.370. 1. The commission shall, prior to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, 1947, make an estimate of the expenses to be incurred by it during such fiscal year reasonably attributable to the regulation of public utilities as provided in chapters 386, 392 and 393, RSMo, and shall also separately estimate the amount of such expenses directly attributable to such regulation of each of the following groups of public utilities: Electrical corporations, gas corporations, water corporations, heating companies and telephone corporations, telegraph corporations, sewer corporations, and any other public utility as defined in section 386.020, as well as the amount of such expenses not directly attributable to any such group.
2. The commission shall allocate to each such group of public utilities the estimated expenses directly attributable to the regulation of such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the preceding calendar year bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission, as aforesaid, during such calendar year. The commission shall then assess the amount so

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 allocated to each group of public utilities, subject to reduction as herein provided, to the public  
17 utilities in such group in proportion to their respective gross intrastate operating revenues during  
18 the preceding calendar year, except that the [total] **sum of the** amount [so] assessed to all such  
19 public utilities **pursuant to this section and the assessment rendered pursuant to section**  
20 **386.720** shall not exceed [one-fourth] **twenty-four hundredths** of one percent of the total gross  
21 intrastate operating revenues of all utilities subject to the jurisdiction of the commission.

22 3. The commission shall render a statement of such assessment to each such public  
23 utility on or before July first and the amount so assessed to each such public utility shall be paid  
24 by it to the director of revenue in full on or before July fifteenth next following the rendition of  
25 such statement, except that any such public utility may at its election pay such assessment in four  
26 equal installments not later than the following dates next following the rendition of said  
27 statement, to wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The  
28 director of revenue shall remit such payments to the state treasurer.

29 4. The state treasurer shall credit such payments to a special fund, which is hereby  
30 created, to be known as "The Public Service Commission Fund", which fund, or its successor  
31 fund created pursuant to section 33.571, RSMo, shall be devoted solely to the payment of  
32 expenditures actually incurred by the commission and attributable to the regulation of such  
33 public utilities subject to the jurisdiction of the commission, as aforesaid. Any amount  
34 remaining in such special fund or its successor fund at the end of any fiscal year shall not revert  
35 to the general revenue fund, but shall be applicable by appropriation of the general assembly to  
36 the payment of such expenditures of the commission in the succeeding fiscal year and shall be  
37 applied by the commission to the reduction of the amount to be assessed to such public utilities  
38 in such succeeding fiscal year, such reduction to be allocated to each group of public utilities in  
39 proportion to the respective gross intrastate operating revenues of the respective groups during  
40 the preceding calendar year.

41 5. In order to enable the commission to make the allocations and assessments herein  
42 provided for, each public utility subject to the jurisdiction of the commission as aforesaid shall  
43 file with the commission, within ten days after August 28, 1996, and thereafter on or before  
44 March thirty-first of each year, a statement under oath showing its gross intrastate operating  
45 revenues for the preceding calendar year, and if any public utility shall fail to file such statement  
46 within the time aforesaid the commission shall estimate such revenue which estimate shall be  
47 binding on such public utility for the purpose of this section.

**386.720. 1. Beginning with the fiscal year commencing on July 1, 2002, the**  
2 **commission shall assess public utilities subject to the jurisdiction of the commission for an**  
3 **amount equal to the costs to be incurred by the public counsel reasonably attributable to**  
4 **the performance of duties pursuant to section 386.710. Such amount shall not exceed the**

5 amount appropriated for the office of the public counsel for the fiscal year commencing on  
6 July 1, 2001, as adjusted on July 1, 2002, and annually thereafter, by the same percentage  
7 as the increase in the general price level as measured by the Consumer Price Index for All  
8 Urban Consumers (CPI-U) for the United States, or its successor index, as defined and  
9 officially recorded by the United States Department of Labor or its successor agency. The  
10 commission shall assess such amount to the public utilities subject to the jurisdiction of the  
11 commission, subject to reduction as herein provided, in proportion to their respective gross  
12 intrastate operating revenues during the preceding calendar year. Any public utility  
13 subject to such assessment may recover its proportion of such assessment from customers  
14 and may list such recovery as a line item charge on such customers' bills. Customers  
15 subject to such a recovery charge shall be billed in proportion to their respective use of  
16 such utility's services. The total amount recovered from such customers in any year shall  
17 not exceed the utility's annual assessment.

18       2. The commission shall render annually a statement for the public counsel  
19 assessment to each such public utility on or before July first and the amount so assessed  
20 to each such public utility shall be paid by it to the director of revenue in full on or before  
21 July fifteenth next following the rendition of such statement; except that any such public  
22 utility may at its election pay such assessment in four equal installments not later than the  
23 following dates next following the rendition of such statement, to wit: July fifteenth,  
24 October fifteenth, January fifteenth, and April fifteenth. Such statement shall be included  
25 with the statement for the assessment rendered pursuant to section 386.370, provided that  
26 the amount for the assessment pursuant to this section and the amount for the assessment  
27 pursuant to section 386.370 shall be listed as separate line item charges on such statement.  
28 The director of revenue shall remit such payments to the state treasurer.

29       3. The state treasurer shall credit payments received for the public counsel to a  
30 special fund, with is hereby created, to be known as the "Public Counsel Fund" with such  
31 fund to be subject to appropriation and devoted solely to the payment of expenditures  
32 actually incurred by the public counsel and attributable to the performance of duties  
33 pursuant to section 386.710. Notwithstanding the provisions of section 33.080, RSMo, any  
34 amount remaining in such special fund at the end of any fiscal year shall not revert to the  
35 general revenue fund, but shall be applicable by appropriation of the general assembly to  
36 the payment of such expenditures of the public counsel in the succeeding fiscal year and  
37 shall be applied by the commission to the reduction of the amount to be assessed to such  
38 public utilities in such succeeding fiscal year, such reduction to be allocated to each group  
39 of public utilities in proportion to the respective gross intrastate operating revenues of the  
40 respective groups during the preceding calendar year. Prior to May sixteenth of each year,

41 **the public counsel shall provide the commission with an estimate of the amount that will**  
42 **remain in the public counsel fund at the end of the fiscal year.**

43 **4. The provisions fo this section shall expire on July 1, 2003.**

Section B. Because immediate action is necessary to ensure that the interests of the  
2 utility customers continue to be represented in cases before the public service commission,  
3 section A of this act is deemed necessary for the immediate preservation of the public health,  
4 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of  
5 the constitution, and section A of this act shall be in full force and effect upon its passage and  
6 approval.